

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

RODGER SERATT,)
)
Plaintiff,)
)
v.) No. 1:11CV95 SNLJ
)
CITY OF MARION, ILLINOIS,)
)
Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court upon its own motion. Plaintiff has filed this action against the City of Marion, Illinois, to enjoin the city from enforcing a local ordinance prohibiting the sale of synthetic cannabis, which plaintiff claims to be a distributor of.

This action may “be brought only in (1) a judicial district where any defendant resides, if all defendants reside in the same State, (2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated, or (3) a judicial district in which any defendant may be found, if there is no district in which the action may otherwise be brought.” 28 U.S.C. § 1391(b). None of the requirements of § 1391(b) are present in this District. As a result, venue does not lie in the Eastern District of Missouri.

Under 28 U.S.C. § 1406(a), “[t]he district court of a district in which is filed a case laying venue in the wrong division or district shall dismiss . . .” As a result, the Court will dismiss this action without prejudice.

Accordingly,

IT IS HEREBY ORDERED that this action is **DISMISSED** without prejudice pursuant to 28 U.S.C. § 1406(a).

IT IS FURTHER ORDERED that plaintiff’s motion for a temporary restraining order is **DENIED** as moot.

An Order of Dismissal shall be filed with this Memorandum and Order.

Dated this 1st day of June, 2011.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE